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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,666	12/02/2003	A. R. Tissington	PH002	5065
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UNISYS CORPORATION			EXAMINER	
UNISYS WAY			JOSEPH, TONYA S	
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BLUE BELL, PA 19424				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,666

Applicant(s)

TISSINGTON ET AL.

Examiner

TONYA JOSEPH

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 10-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 03/12/2007.

DETAILED ACTION

Election/Restrictions

Upon further reconsideration and in light of Applicant's amendments, in the response dated 05/06/2008, the following corrected restriction requirement is issued:

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a method for determining a security risk level, classified in class 705, subclass 1.
 - II. Claims 10-16, drawn to a method for producing a recommendation, classified in class 705, subclass 1.
 - III. Claims 17-19, drawn to a system for inspections, classified in class 705, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II-III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as checking cargo data against rules to determining a risk level.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR

1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

3. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination III has separate utility such as inspecting cargo using gamma irradiation. See MPEP § 806.05(d).

4. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after

the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. During a telephone conversation with Richard Gregson on July 10, 2008 a provisional election was made with traverse to prosecute invention I, claims 1-9 . Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-19 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Objections

7. Claims 8 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 7. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites the term "... a thesaurus-like data recognizer...". Although, Applicant's specification describes a thesaurus recognizer, it is unclear if this device performs the same functions as the claimed "thesaurus-like data recognizer". For Examination purposes, Examiner is interpreting the devices perform the same function. Appropriate correction is required.

11. Claims 6-8 present optional claim language based on a *possible* selection. The relevant scope of these claims is unclear based on the initial selection of a as opposed to the *possible* response of c. For Examination purposes, Examiner is interpreting the claim limitations to be non-further limiting if an initial response other than c is chosen.

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12. The term "suspicious" in claims 6-8 is a relative term which renders the claim indefinite. The term "suspicious" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For Examination purposes, Examiner is interpreting any package as being suspicious.

13. Claim 9 recites the limitation, "wherein under circumstances where an operator has an option to increase the risk profile risk of any or all containers based upon external factors" It is unclear what Applicant wishes to convey. For Examination purposes, Examiner is interpreting increase the risk profile risk of any or all containers based upon external factors as meeting the limitations of the claim.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto U.S. Pre-Grant Publication No. 2002/0120475 A1 in view of Stoica U.S. Patent No. 6,728,701 B1 in further view of Webb U.S. Pre-Grant Publication No. 2004/0257225 A1.

16. As per Claim 1, Morimoto teaches ensuring data input in a format acceptable to a system for identifying contents and tracking at least one particular container (see

para. 11-12 and 14), Morimoto does not explicitly teach the limitation taught by Stoica, identifying each item by a profile, checking said data input for each profile against a thesaurus-like data recognizer software program having access to multiple terms for at least one of the data inputs, and expanding the total amount of information kept for containers by matches in said thesaurus-like data recognizer software, thereby expanding said profile (see Col. 1 lines 57-67 and Col. 2 lines 10-24), checking other sources against said profile and determining whether data in said expanded profile has reference of interest to other sources' trigger information, and if so, adding said reference of interest to further expand said profile (see Col. 4 lines 8-12), Morimoto teaches a container. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Morimoto to include the teachings of Stoica to organize a database. Morimoto in view of Stoica does not explicitly teach the limitation taught by Webb checking business rules against the total amount of information for said particular item to determine a security risk level, responding to said security risk level (see para. 18-21 and 98); Stoica teaches a further expanded profile. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Morimoto and Stoica to include the teachings of Webb to solicit a follow-up by the appropriate officials, as taught in Webb para. 98.

17. As per Claim 2, Morimoto in view of Stoica in further view of Webb teaches the method of claim 1 as described above. Morimoto does not explicitly teach the limitation

taught by Webb wherein said response to said security risk level is one of several responses including either

- a) a manual search of said container (see para. 18),
- b) gamma irradiation inspection processing of said container and re-evaluation of said container's risk based on results of said irradiation inspection processing,
- c) minimal inspection of container, and
- d) allowing passage through checkpoint.

It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods Morimoto and Stoica to further include the teachings of Webb to determine appropriate unloading procedures, as taught by Webb para. 18.

18. As per Claim 9, Morimoto in view of Stoica in further view of Webb teaches the method of claim 1 as described above. Morimoto does not explicitly teach the limitation taught by Stoica, under circumstances where an operator has an option to increase the risk profile risk of any or all containers based upon external factors (see Col. 1 lines 57-67 and Col. 2 lines 10-24). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the method of Morimoto to include the teachings of Stoica to organize a database.

19. Claims 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morimoto U.S. Pre-Grant Publication No. 2002/0120475 A1 in view of Stoica U.S. Patent No. 6,728,701 B1 in further view of Webb U.S. Pre-Grant Publication No. 2004/0257225 A1 and Stratmoen U.S. Pre-Grant Publication No. 2004/0041706 A1.

20. As per Claims 3-5, Morimoto in view of Stoica in further view of Webb teaches the method of claim 2 as described above. Morimoto does not explicitly teach the limitation taught by Stratmoen wherein said responses are chosen based on a scaled risk profile having a high risk side and a low risk side (see para. 23 and 44). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the methods of Morimoto, Stoica and Webb to include the teachings of Stratmoen to determine appropriate action for a container as taught in Stratmoen para. 23. Although Stratmoen teaches detaining a container with a high security risk (see para. 23), it doesn't teach wherein said step a is reserved for containers having been evaluated with a risk profile toward the high end of the scale; wherein regardless of a risk profile's scale, said container is subject to response b, and if as a result of said response b, a higher risk profile is developed for said container, then applying response a to said container or a low risk profile garners a c and d response from the system, however, it would have been prima facie obvious to try by one of ordinary skill in the art at the time of invention to performing any response since there are a finite number of identified, predictable and potential solutions to the a container being deemed a threat and one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success.

21. As per Claims 6-8, Morimoto in view of Stoica in further view of Webb and Stratmoen teaches the method of claim 5 as described above. Although Stratmoen teaches detaining a container with a high security risk (see para. 23), it doesn't teach wherein if in a c response, a suspicious circumstance is found, exercising response b or

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wherein if in a c response, a suspicious circumstance is found, exercising response a, however, it would have been prima facie obvious to try by one of ordinary skill in the art at the time of invention to performing any response since there are a finite number of identified, predictable and potential solutions to the a container being deemed a threat and one of ordinary skill in t the art could have pursued the known potential solutions with a reasonable expectation of success.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TONYA JOSEPH whose telephone number is (571)270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tonya Joseph
Examiner
Art Unit 3628

/JOHN W HAYES/
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